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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111213751-2102-02]

RIN 0648-XC376

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of Pacific cod from catcher vessels greater than or equal to 60 feet length overall (LOA) using pot gear to hook-and-line catcher/processors, pot catcher/processors, and catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2012 total allowable catch of Pacific cod to be harvested.

DATES: Effective November 30, 2012, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by

the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2012 Pacific cod total allowable catch (TAC) specified for catcher vessels greater than or equal to 60 feet length overall (LOA) using pot gear in the BSAI is 19,509 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012). The Regional Administrator has determined that catcher vessels greater than or equal to 60 feet LOA using pot gear will not be able to harvest 6,300 mt of the 2012 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(5). In accordance with § 679.20(a)(7)(iii) and taking into account the capabilities of the sectors to harvest reallocated amounts of Pacific cod, the Regional Administrator has also determined that this unharvested amount is unlikely to be entirely harvested through the reallocation hierarchy set forth in § 679.20(a)(7)(iii)(A). Therefore, following the reallocation hierarchies set forth in both § 679.20(a)(7)(iii)(A) and § 679.20(a)(7)(iii)(C), NMFS reallocates 500 mt to catcher vessels less than 60 ft. LOA using hook-and-line or pot gear, 800 mt to pot catcher/processors, and 5,000 mt to hook-and-line catcher/processors.<sup>1</sup>

The harvest specifications for Pacific cod included in the final 2012 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012) and inseason adjustment (77 FR 53152, August 31, 2012) are revised as follows: 118,106 mt for hook-

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<sup>1</sup> § 679.20(a)(7)(iii)(A) requires that the projected unharvested amount from catcher vessels greater than or equal to 60 feet length overall (LOA) using pot gear that is unlikely to be harvested through the reallocation hierarchy set forth in § 679.20(a)(7)(iii)(A) be reallocated to the pot catcher/processor sector in accordance with the reallocation hierarchy set forth in 679.20(a)(7)(iii)(C).

and-line catcher/processors, 4,284 mt for pot catcher/processors, 8,880 mt for catcher vessels less than 60 ft. LOA using hook-and-line or pot gear, and 13,209 mt for catcher vessels greater than or equal to 60 ft. LOA using pot gear.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified for the Pacific cod sectors affected by this action. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 29, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: November 30, 2012

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Lindsay Fullenkamp,  
Acting Deputy Director,  
Office of Sustainable Fisheries, National Marine Fisheries Service.

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